REMARKS

The Office rejected claims 1, 2, 5-11, 13, 14, 16 and 17 under 35 U.S.C. §103(a) over the combination of Brubaker (U.S. Patent No. 2,264,298) and Sato et al. (U.S. Patent No. 4,963,639). In addition, the Office has rejected claims 1-3, 5-7 and 9-18 under 35 U.S.C. §103(a) over the combination of Brubaker and Glazko et al. (Russian Journal of Applied Chemistry, Vol. 74, No. 9, 2001, pgs. 1513-1516).

The disclosure relates to a polyamide containing compound which includes at least one hydroxyl group and has chemical bonding by way of an amide group to the end of the polymer chain. The compound which includes at least one hydroxyl group is a linear, unbranched alkanecarboxylic acid which includes at least one hydroxyl group. Applicants submit that the cited references fail to establish a prima facie case of obviousness because there is no suggestion or motivation to modify or combine the reference teachings and because there is not a reasonable expectation of success in combing or modifying the references as suggested by the Office.

Brubaker describes polyamides which are formed with a polyamide-forming composition in the presence of a hydroxyamine. In Brubaker, the amine moiety of the hydroxyl amine reacts with a carboxylate moiety in the polyamide formed. This reaction sequence is illustrated as follows:

Polyamide-C(O)-OH + H_2N-R-OH $\rightarrow$

Polyamide-C(O)-NH-R-OH
(Brubaker)

In Brubaker, the chemical bonding to the polymer is by way of a carboxylate group. In contrast, the chemical bonding of the disclosure is by way of an amide to the end of the polymer chain. This reaction sequence is illustrated as follows:

Polyamide-NH_2 + HO-C(O)-R-OH $\rightarrow$

Polyamide-NH-C(O)-R-OH
(Disclosure)

The disclosure and Brubaker give completely different chemical structures on the polyamide.

Sato describes a radiation curable resin composition which consists of a urethane (meth)acrylate. The urethane (meth)acrylate is obtained by reaction of a hydroxy-containing compound composed in part of an amide hydroxyl compound with other components. The amide hydroxyl compounds may be polyamide polyols made from a polyamide and a hydroxyl-containing carboxylic acid.

The Office suggests that it would have been obvious to replace the hydroxylamine in Brubaker with the hydroxy-containing carboxylic acid in Sato.

Brubaker selected chemical bonding to the polymer by way of the carboxylate group by reaction with the hydroxylamine to improve the viscosity and the affinity for dyes (page 1, second column, lines 4-12). The Office has provided no explanation as to why there is a reasonable expectation of success in modifying the chemical structure in Brubaker by reacting the polyamide with a carboxylate compound. What is the reasonable expectation of success in changing the fundamental structure required in Brubaker?

Brubaker states that the object of the invention is accomplished by the hydroxylamine (page 1, column 2, lines 13-20). The hydroxylamine provides a critical structure which the Office has suggested modifying. Why is there an expectation that such a modification would be successful? Applicants submit that there is no reasonable expectation that such a modification would be successful.

The Office has also suggested there is motivation to modify Brubaker because hydroxycarboxylic acid is more environmentally friendly compared to hydroxylamine. The

Office has made this conclusory suggestion without any support. Applicants note that official notice without documentary evidence to support an Examiner's conclusion is permissible only in some circumstances. Official notice unsupported by documentary evidence should only be taken by the Examiner where the facts asserted are well-known. It is not appropriate for the Examiner to take official notice of facts without citing a prior art references where the facts asserted to be well know are not capable of instant and unquestionable demonstration as being well know. (MPEP 2144.03(A)).

Nevertheless, Applicants respectfully disagree with the Office's conclusion regarding the environmental unfriendliness of ethanolamine (used by Brubaker). Applicants direct the Office to the attached household database from the National Institutes of Health's National Library of Medicine. The attached document lists the uses of monoethanolamine (MEA) (used by Brubaker). MEA is used in hundreds of household products including detergents and shampoos. If MEA is as environmentally unfriendly as the Office asserts, why is this product used in such products which find their way into wastewater?

Applicants further note that the hydroxycarboxylic acid counterpart to MEA (hydroxyethanoic acid) is a highly acidic skin and inhalation hazard as evidenced by the attached MSDS for hydroxyethanoic acid. This is counter to the Office's conclusions. Because there is not a reasonable expectation of success in modifying Brubaker and because there is no teaching or suggestion to modify or combine Brubaker, the disclosure would not have been obvious over the combination of Brubaker and Sato. Accordingly, Applicants respectfully request that the Office withdraw the rejections of claims 1, 2, 5-11, 13, 14, 16 and 17 under 35 U.S.C. §103(a) over Brubaker and Sato.

The rejection of claims 1-3, 5-7 and 9-18 over the combination of Brubaker and Glazko is respectfully traversed.

The disclosures above with regard Brubaker are applicable here. Applicants note that Brubaker does not teach or suggest the use of a hydroxycarboxylic acid. The Office has cited Glazko which describes the conversion of caprolactam to hydroxycaproic acid. Applicants fail

to understand why Glazko is relevant. Applicants note that it is improper to use Applicants own disclosure to supply the missing teaching or suggestion step. Like Brubaker, Glazko does not teach or suggest the use of hydroxycaproic acid in polyamide formulations it only describes how one can make hydroxycaproic acid. Therefore, the combination of Brubaker and Glazko does not teach or suggest the claimed composition.

Accordingly, the claimed composition would not have been obvious over the combination of these references. As such, Applicants respectfully request that the Office withdraw the rejection of claims 1-3, 5-7 and 9-18 under 35 U.S.C. §103(a) over Brubaker and Glazko.

In view of the above remarks, applicant believes the pending application is in condition for allowance. Favorable reconsideration is respectfully requested.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 12810-00072-US from which the undersigned is authorized to draw.

Dated: September 25, 2007

Respectfully submitted,
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